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October 2, 2001

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
Commonwealth of Massachusetts
One South Station, 2nd Floor
Boston, Massachusetts 02110

Re: D.T.E. 01-20 – AT&T Surreplies

Dear Ms. Cottrell:

This letter addresses pleadings filed by AT&T Communications of New England, Inc. (“AT&T”) on September 26, 2001, regarding Verizon MA’s September 20, 2001 Reply to AT&T’s Motion to Compel, and Verizon MA’s September 20, 2001 Reply to AT&T’s Motion for Reconsideration and Conditional Motion to Strike Verizon’s Recurring Cost Model. AT&T’s pleadings, cast as “surreplies,” are unauthorized pleadings, which should be ignored by the Department, and mischaracterize both Verizon MA’s arguments and the import of the Department’s interlocutory order of August 31, 2001.

As described in the above-referenced replies of Verizon MA, the major flaw in AT&T’s position with regard to the subject discovery disputes is that it misstates the basis of Verizon MA’s objections to certain requests posed to it as well as AT&T’s objections to the questions asked of it. AT&T’s objections to the disputed information requests were based solely on the relevance of the information sought by Verizon MA and the alleged proprietary nature of the material, and it was on that basis that the Department made its August 31 rulings. *See August 31 Order*, at 11-19 and Appendix A.

The Department did not create a new standard of review, but merely dismissed the objections because of the highly relevant nature of the information sought. In sharp contrast, Verizon MA’s objections were based on the argument that the burden that would be imposed to respond to the information requests outweighed whatever minimal relevance the information would bring to the proceeding. The August 31st Order did not establish an “absolute” standard by which any minimally relevant information must be produced (whatever the burdens of production). The Order did not address the issue of burden because that was not the basis of AT&T’s objection. The Department correctly found that the information denied to Verizon MA

by AT&T is “an essential component of [the AT&T] cost model.” *August 31 Order*, at 13. The material sought by AT&T was only tangentially relevant (if at all) since it largely represented data that was “back-up to the back-up” that had already been provided by Verizon MA. There is nothing inconsistent in the position of Verizon MA since its objections were based on the burden of producing the information, which, in this case, greatly outweighs the probative value of the information.

Because the Department did not provide for additional pleadings on this matter, AT&T’s “surreplies” constitute unauthorized pleadings, which should be rejected by the Department. Accordingly, Verizon MA will not file a detailed response. If the Department wishes additional argument on this issue, Verizon MA would be pleased to file a responsive pleading.

Sincerely,

Bruce P. Beausejour

cc: Attached D.T.E. 01-20 Service List